



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,887	09/29/2003	Fred Gehrung Gustavson	YOR920030010US1	7986
48150 7590 01/12/2007 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			EXAMINER NGO, CHUONG D	
			ART UNIT 2193	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/671,887

Applicant(s)

GUSTAVSON ET AL.

Examiner

Chuong D. Ngo

Art Unit

2193

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/21/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-14 and 19-27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-9 and 19-27 are directed to a computer implemented method of calculation. Claims 10-14 are although directed to an apparatus, broadly encompass a general computer implementing the method. In order for a claimed invention that is directed to such a computer implemented method of calculation, or an apparatus that is no more than a general computer implementing the method of calculation to be statutory, the claimed invention must accomplish a practical application. That is the claimed invention must transform an article or physical object to a different state or thing, or produce a useful, concrete and tangible result. State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Also see "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility", OG Notices: 22 November 2005. It is clear from claims 1-14 and 19-22 that the claims merely involves calculations and manipulations of data in performing computations. The claimed invention does not transform an article or physical object to a different state or thing. The inputs are numbers and the results are also numbers. Further, the result of the invention is merely numerical values without a practical application recited in the claims. It is not real world result, and thus is not useful, concrete and tangible. Therefore, the claimed invention is directed to non-statutory subject matter as the

Art Unit: 2193

claims fail to assert a practical application to the invention.

5. Claims 15-18 are rejected under 35 U.S.C. 101 as being directed to signal bearing medium including carrier signal which is non-statutory subject matter.

It should be noted that claims 15-18 if merely amended to limit the invention to a computer readable medium that excludes carrier wave or any form of propagation signals would also be rejected under 35 U.S.C. 101 for the same reason set forth in paragraph 3 above.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3,6,7,9,10,12,14,15,18,23,25, and 26. are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Myszewski (5,099,447).

Myszewshi discloses an execution of a matrix subroutine including DGEMM (see col. 1, line 35) in which the matrix is divided into blocks for storing, retrieving and operating on, wherein block size is based on the cache size and clearly including rectangular blocks such that the width of the blocks in a first term matrix is the same as the height of the corresponding blocks in the second term matrix (see col. 4, line 55-64).

6. Claims 5,8,13,16,19,21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myszewshi (5,099,447).

Although Myszewshi does not specifically disclose, it would have been obvious applications to employ the teaching of Myszewshi in a system that has an L1 cache, in executing subroutine from a Lapack, and in a problem solving as claimed to improve the speed of execution.

7. Applicant's arguments filed 10/27/2006 have been fully considered but they are not persuasive.

First, it is respectfully submitted that the final result produced by the invention as recited in the claims is merely numerical values, and thus does not constitutes a useful result as in State St. Bank to Trust Co., 149 F.3d at 1373, where the result indicate dollar amounts to a final share price. Further, it should be noted that in determining whether the invention produces a useful, tangible, and concrete result, the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather on whether the final result achieved by the claimed invention is "useful, tangible, and concrete", see "Interim Guidelines for Examination

of Patent Applications for Patent Subject Matter Eligibility”, MPEP 2106. Therefore, the claimed invention is directed to non-statutory subject matter as the claims fail to assert a practical application to the invention. Further, claims 15-18 are directed to a signal bearing medium that clearly includes carrier signal which is non-statutory subject matter.

Secondly, it is respectfully submitted that, since Myszewshi teaches an execution of a matrix subroutine in a computer, the data of the matrix is clearly stored in a memory in order to be processed. Further, the teaching of partition of the matrix into blocks for processing as disclosed in figures 1-5 and col. 4, line 55-64, of Myszewshi clearly suggests the store of data in memory in the form of blocks of contiguous data and to be retrieved in units of increment block as to process data in block by block manner.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2193

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong D. Ngo whose telephone number is (571) 272-3731. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Chuong D Ngo
Primary Examiner
Art Unit 2193

01/06/2007